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MISCELLANY.

Rehearings.—Rehearing refused in *Meredith v. Triple Island Gunning Club*.

Petitions for rehearing pending in: *Southern Ry. Co. v. Mc-Menamin*; *Walter v. Whitacre*; *Moorman v. Lynchburg*; *Tazewell, etc., Co. v. Gillespie*.

A Lengthy Trial.—To the Editor of the "Virginia Law Register:" The following excerpts from the local columns of the "New York Times" are interesting to lawyers as presenting a case of unusual duration of time consumed in the trial, with the incidental inconvenience to jurors and others, and also of the trying-out of a federal law of recent enactment and wide scope of possible application:

George Graham Rice and B. H. Scheftels pleaded guilty yesterday afternoon before Judge Ray in the Federal District Court to the indictment charging them with conspiracy and the use of the mails to defraud in seeking to create a market for certain stocks. Rice was sentenced to one year's imprisonment. Sentence was suspended in Scheftel's case. The indictment against the other defendants, Waterman, Belser, and Stone, and against John Delaney, who had elected to be tried separately, were quashed.

According to a statement given out by Rice, the trial had been brought to a sudden end, in its seventeenth week, by the fact that he had used the last of his financial resources. Moreover, it was pointed out that he had made fairly good terms for himself. His sentence is to date from Dec. 29, when his bail was canceled and he was committed to the Tombs, after one of the jurors had been approached, so that he has already served more than two months of his term. With the customary commutation for good behavior, he will be at liberty within six or seven months.

Here is Rice's statement:

B. H. Scheftels & Co. did nothing except what is and has been commonly practiced in Wall Street by the most reputable Stock Exchange houses. I know the methods were fair and honest, as measured by the best standards of the Street. We, however, committed the unspeakable and never-forgotten crime of attacking without fear powerful interests in the mining securities markets, and they have broken us on the wheel.

I pleaded guilty only when all my resources and those of my friends had been exhausted. I was up against it. The Government has more money than it knows what to do with, and I was down to my last cent.

The proceedings in court were brief. Mr. Baldwin, acting for both Rice and Scheftels, entered the withdrawal of their pleas and Judge Ray then addressed the defendants. He said:

"This prosecution was instituted under a statute recently amended,

and this case is the first of the kind as to the nature and character of the scheme to defraud ever instituted or prosecuted under it. It has been an important case to the Government and to the people of the country as a whole, and to the Post Office Department, which undertakes also to prevent the prostitution of the great institutions of our Government.

"The punishment of offenders is not the first consideration of courts in the administration of the criminal law. It is beyond the power of any man or Court to measure the heart of a man with any accuracy; his motives or his weaknesses. The main purpose is to vindicate the law, give the public to understand there is a law and that its provisions cannot be violated with impunity, and also to give a warning to those liable to offend that punishment is certain.

"In this case the main purpose of the law has been accomplished. Men will differ as to the wisdom of the course the Court is about to pursue in the case of yourself, Mr. Rice, and of you, Mr. Scheftels. Many will think the sentence of the Court is not adequate to the offense to which you have entered a plea of guilty, but the Court takes the responsibility, remembering that 'Vengeance is mine; I will repay, saith the lord,' and that the certainty and not the severity of the punishment is the most certain preventive of crime. Long terms of imprisonment are essential when the offender is a confirmed criminal and dangerous to society, a dangerous man to be at large. In your case I do not regard a long term of imprisonment essential to either the vindication of the law or to the protection of society. The law is vindicated and the prosecution by the Government fully justified."

The Court then sentenced Rice and, addressing Scheftels, said:

"In your case, Mr. Scheftels, there is nothing that points to your having been engaged in any criminal matters heretofore, and I am glad of that. In consideration of that fact and of your years and the absence of proof that you have ever been guilty of any offense before, the Court suspends sentence. I can only say, in all your business deals hereafter, Mr. Scheftels, be careful not to allow the love of gain to lead you into anything which may take from others their property, their money, their comfort. So long as you adhere to that you will go untouched by the arm of the law."

District Attorney Wise made this statement of the Government's view of the case:

"The defendants, doing business as brokers, sought to create a market for certain stocks of which they held large blocks under option. These stocks they sought to sell to their customers at inflated market prices with a secret profit to themselves. In aid of their stock selling campaign they put out market 'literature' clearly devised to induce the public to accept their advice to order the purchase of the particular stocks in which they expected to make this secret profit.

"These and other similar practices with which they were charged have been common in this city. Those engaged in such practices have not heretofore been prosecuted, and it has hitherto not been supposed to be practicable to prosecute them under the Federal statutes. The case has been regarded by the Government as a test case and one of far-reaching importance in that aspect. Its successful termination has established the criminal responsibility of brokers for practices which it had been commonly supposed would expose them at the most to civil liabilities. The prosecution, I am informed, has already had considerable effect in this community. The resulting conviction should have a still further effect.

"Taking into consideration the expenditure of time and money that would be involved in the completion of a trial the end of which was not yet in sight, the hardship to the jurors in the case and the likelihood of some casualty that would result in a mistrial, the Government has felt that it would not be justified in opposing the plea of the principal offender. In my opinion, the interests of justice did not require the further prosecution of the other defendants who were minor offenders, and mere tools in the employ of Rice, and upon whom the lengthy trial had already operated as a serious punishment.

"In consenting to the terms upon which this case has been concluded, I felt that the importance of having such a course of business as that of these defendants adjudicated to be criminal was of far more importance to the community than the question of how much or what character of punishment was meted out to these particular defendants."

The lawyers for the defense also called attention after the conclusion of the trial to the fact that the prosecution was proceeding under a new statute, which constituted certain practices a criminal offense for the first time.

Two days before the pleas of guilty were entered, the "Times" thus described the situation of the jurors:

"The Scheftels jurors made a protest yesterday to Judge Ray as to the length of the trial, their small pay, and the heavy losses they are incurring. They held a consultation in the corridor at the luncheon recess, and on the adjournment for the day they filed into the Judge's chambers and had a consultation with him. It lasted twenty minutes, and at its finish it was announced that beginning next Monday there will be no morning sessions, but the court will sit every afternoon from 1 o'clock until 5.30.

"It was understood that the jurors also requested some special reimbursement for their services, which have been almost continuous since the end of October and are likely to be required for months to come. They are receiving only the regular jury fee of \$3 a day, and as the court does not sit on Saturday, this means at the most \$15 a week.

"The jurors declare that they are already almost ruined. One of them, a commission merchant, declares that he has lost some of his best customers. Another juror, a liquor dealer, declares his losses run up into the thousands, and a third has had to give up a tea store, as there has been a death in the family since the trial began, and there is no one else to look after it.

"'If this trial goes on much longer,' said one of the jury, 'my business will be gone and I shall be head over ears in debt.'

"Most of the jurors have signed a petition which will be sent to Congress, asking a grant to cover their losses."

Hints of the compromise later arrived at were reported in the next day's account of the trial, which contained the following:

"In the seventeen weeks that the trial has lasted, it has cost the Government not much short of \$50,000, according to District Attorney Wise. It has occupied the time of three Assistant District Attorneys almost continuously since October and for several months before that they were engaged in its preparation. In addition there have been expert accountants and mining engineers employed, while the amount of work which has been thrown on the court stenographers has been tremendous.

"But what has been particularly discouraging to all concerned in the case has been its apparent endlessness. The door for the admission of a vast variety of evidence has been opened, and as almost every question asked a witness has been met with objections from one side or the other, the taking of testimony has been very slow. Judge Ray has felt that he had no power to limit the number of witnesses the defense might call, and that he must give the most careful consideration to every point raised by counsel. Consequently, the proceedings have been dragging along with a witness on the stand for four or five days at a time, and with long intervals between questions to permit the lawyers full opportunity to debate the objections that can be raised.

"It has been realized by both sides that there was little hope of reaching the closing addresses till the summer, and this has meant that it was quite likely that before that the trial would be interrupted by the illness of some one whose presence was indispensable. Already the foreman of the jury has suffered from a diseased eye, and yesterday afternoon the trial had to go over to enable him to undergo an operation. If the negotiations between Rice and the District Attorney arrive at any sort of settlement, it will be received by all with immense relief."

Mr. P. P. Winston, Clerk of the Law and Equity Court of the City of Richmond, in a recent address before the Richmond Bar Association, spoke of the Ragland Will case as holding, to his knowledge, the record for duration. It was tried in 1851 in the Circuit Court of the City of Richmond before Judge Caskie, having been removed

from the Circuit Court of Louisa County, where it has been twice tried before a jury, the result of each trial being a disagreement. The trial in Richmond lasted for ninety days, the jury agreeing in half an hour upon a verdict sustaining the will. Mr. Edward J. Warren, at present Auditor of the City of Richmond, is the only surviving member of the jury.

GEORGE BRYAN.

IN VACATION.

A man who was not wise to the ways of the world was the father of a bright boy. He spent much time debating how the lad's future was to be shaped, and finally went for advice to the village sage, who at one time had been a part of the selfish, striving world, and who left it scarred and shaken, but full of wisdom. And the sage told the perplexed father how to determine his son's future, and the father straightway went and did as he was advised. But the next day he sought out the sage in sore perplexity.

"The whole plan went wrong," said he, "and I am in a quandary what to do next."

"What did I advise you to do?" asked the wise man.

"You told me to leave George in a room with a work on theology, an apple, and some small change; that if when I returned I found him reading the book, he was to be made a clergyman; if eating the apple, a farmer; if interested in the money, a banker."

"Well?"

"But when I came back he was seated on the book with the half-devoured apple in his hand and the money in his pocket."

"That settles it," said the sage; "the lad is a born lawyer."—Law Student's Helper.

A Figure of Speech.—A Tacoma lawyer, arguing a divorce case, recently closed his address to the jury as follows: "My client is a beautiful woman, so beautiful that the sun seems to stand still while the stars gaze at her. Truthful! Falsity flies from her even as the jack rabbit flits from the greyhound. Sweet! Gentlemen, honey would freeze in her mouth. Tender and slender! My client could bathe in a fountain pen."—National Corporation Reporter.